

Exhibit

3

MAR 6 2002
at 3 o'clock and 40 min M
WALTER A. Y. H. CHINN CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY,) CIVIL NO. 01 00446 SPK LEK
)
Plaintiff,)
)
vs.)
)
FLEMING COMPANIES, INC., aka) SPECIAL VERDICT FORM
FLEMING FOODS, INC., aka)
FLEMING,)
DOE INDIVIDUALS 1-50 AND)
DOE PARTNERSHIPS,)
CORPORATIONS AND OTHER)
ENTITIES 1-20,)
)
Defendants.)
)
)
)

SPECIAL VERDICT FORM

A. FREIGHT CONTROL SYSTEM SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Freight Control software attached to Exhibit 221?

Yes X No _____

If "YES" go to next question.
If "NO", skip to section B.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Freight Control software.

Yes

No

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Freight Control software.

Yes

No

If "NO" skip to section B.

If "YES" go to next question.

4. Was the infringement of the Freight Control software copyright willful?

Yes

No

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Freight Control System software?

\$ 98,250.00

B. CRYSTAL REPORTS SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Crystal Reports software attached to Exhibit 222?

Yes No

If "NO", skip to section C.

If "YES" go to next question.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Crystal Reports software.

Yes No

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Crystal Reports software.

Yes No

If "NO" skip to section C.

If "YES" go to next question.

4. Was the infringement of the Crystal Reports software copyright willful?

Yes No

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Crystal Reports software?

C. FLEMINGPO.EXE SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the FlemingPO.exe software attached to Exhibit 223?

Yes X No _____

If "YES" go to next question.

If "NO", skip to the end.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the FlemingPO.exe software.

Yes X No _____

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the FlemingPO.exe software.

Yes _____ No X

If "NO" skip to the end.

If "YES" go to next question.

4. Was the infringement of the FlemingPO.exe software copyright willful?

Yes _____

No _____

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of FlemingPO.exe software?

Please sign and date this Special Verdict Form.

J. C. J.
Jury Foreperson

Kathy

Kathy A. Miller

Carol Ho Akumoto

R. Rice

Act 5 A

Mary P. Ohana

Mark Shumard

J. M. Kealoh

Date

3/6/03